

Ayer

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE:

B-221414

DATE: February 27, 1986

MATTER OF:

Prospective Computer Analysts, Inc.

## DIGEST:

Protest alleging that solicitation evaluation provisions failed to adequately provide for meaningful price/cost evaluation is dismissed as untimely since protest was not filed until after the closing date for receipt of proposals.

Prospective Computer Analysts, Inc. (PCA), protests the evaluation of offers under request for proposals (RFP) No. F41608-84-R-0145 issued by the Air Force San Antonio Air Logistics Center, Kelly Air Force Base, Texas.

We dismiss this protest in accordance with 4 C.F.R. § 21.3(f) (1985) of our Bid Protest Regulations, which provides that, where the propriety of a dismissal becomes clear only after information is provided by the agency, the protest may be dismissed at that time.

The RFP is for software engineering services applicable to automatic test equipment. The RFP required offerors to submit fixed rates for categories of labor necessary to perform the engineering services. The contract essentially will be an agreement to provide engineering services when the agency places an order under the contract.

Basically, PCA contends that the Air Force improperly will not consider price/cost as a factor for award under this RFP. PCA also asserts that the RFP fails to provide estimates of hours necessary to perform tasks under the contract or to breakdown the labor required for each task, and that offerors can only submit fixed-price hourly rates for each of the listed labor categories. PCA concludes that, without providing estimates of the amount of work for each labor category and requiring offerors to submit rates based on these estimates, it is impossible for the Air Force to conduct a meaningful cost comparison or properly evaluate cost.

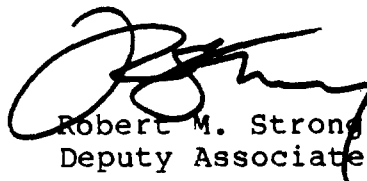
034686

PCA contends that on December 6, 1985, during a telephone conversation with PCA's president, the contracting officer stated: (1) that price would not be a factor in the procurement; (2) that there would not be a price evaluation; and (3) that only a cost realism analysis would be made. PCA argues that this oral determination that the Air Force is not required to consider price in making the award under this RFP renders the RFP deficient.

The Air Force admits that a conversation occurred, but denies PCA's recollection of its substance. The Air Force reports that PCA was informed that in accordance with the Air Force Logistics Command Federal Acquisition Regulation Supplement, § 15.612-91(g)(5), and specific provisions of the RFP, price would be considered, but that price would not be scored since it was not a weighted factor.

PCA essentially is protesting the RFP provisions regarding evaluation of offers and the method of award. Our Bid Protest Regulations require that protests based upon alleged improprieties in an RFP which are apparent prior to the closing date for receipt of initial proposals be filed by the closing date. 4 C.F.R. § 21.2(a)(1) (1985). Here, the initial closing date was June 26, 1985. PCA's protest was filed on December 12, 1985, and it was not until PCA filed its comments on the agency report on January 28, 1986, that PCA clearly raised the issue concerning the inability under the RFP to conduct a meaningful cost comparison or properly evaluate cost. Under our Bid Protest Regulations, PCA was required to protest the allegedly defective evaluation provisions prior to the June 26, 1985, closing date for submission of initial offers. Since PCA's protest of the issue was not filed until substantially thereafter, it is untimely and will not be considered. Travenol Laboratories, Inc., B-220823, Oct. 23, 1985, 85-2 C.P.D. ¶ 453.

We dismiss the protest.



Robert M. Strong  
Deputy Associate General Counsel